

AMENDED IN ASSEMBLY MAY 23, 2006

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 2586**

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**Introduced by Assembly Member Parra**  
*(Principal coauthor: Assembly Member Spitzer)*

February 24, 2006

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An act to amend Section 1170.9 of the Penal Code, relating to sentencing.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2586, as amended, Parra. Sentencing: veterans: treatment programs.

Under existing law, if a convicted defendant was a member of the military forces of the United States who served in combat in Vietnam and who suffers from substance abuse or psychological problems resulting from that service, the court may, under specified circumstances, order the defendant committed to the custody of federal correctional officials for incarceration for a term equivalent to that which the defendant would have served in state prison.

This bill would instead provide that if a person is convicted of a criminal offense and alleges that he or she committed the offense as a result of post-traumatic stress disorder, substance abuse, or psychological problems stemming from service in combat in the United States military, the court shall hold a hearing prior to sentencing to make a determination about that allegation. If the court finds that the defendant's crime was committed as a result of one of those factors related to serving in combat, and the court places the

person on probation, the bill would authorize the court to place the person into a treatment program, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Post-traumatic stress disorder (PTSD) is an inclusive title  
4 for a complex of mental disorders and conditions caused by  
5 exposure to severe, violent, and threatening situations like those  
6 ~~experience~~ *experienced* by military personnel in combat.

7 (b) Once brushed aside as shell shock or combat fatigue,  
8 PTSD was finally recognized as an illness by the American  
9 Psychiatric Association in 1980 based upon the psychiatric  
10 experience of veterans of the Vietnam war.

11 (c) During and after the Vietnam war, a disproportionate  
12 number of our returning combat veterans were incarcerated  
13 because of behavior caused by their misunderstood and untreated  
14 PTSD.

15 (d) In 1982, 10 years after the Vietnam war, the California  
16 Legislature passed Section 1170.9 of the Penal Code. That  
17 section is not sufficient to cover returning Iraq and Afghanistan  
18 veterans.

19 (e) Therefore, it is the intent of the Legislature to extend the  
20 opportunity for alternative sentencing to all combat veterans,  
21 regardless of where or when those veterans served our country,  
22 when those veterans are found by the court to be suffering from  
23 PTSD.

24 (f) It is not the intent of the Legislature to expand probation  
25 eligibility for veterans who commit crimes pursuant to these  
26 provisions.

27 (g) It is the intent of the Legislature to ensure that judges are  
28 aware that a criminal defendant is a combat veteran with these  
29 conditions at the time of sentencing and to be aware of any  
30 treatment programs that exist and are appropriate for the person  
31 at the time of sentencing if a sentence of probation is appropriate.

32 SEC. 2. Section 1170.9 of the Penal Code is amended to read:

1 1170.9. (a) In the case of any person convicted of a criminal  
2 offense who would otherwise be sentenced to county jail or state  
3 prison and who alleges that he or she committed the offense as a  
4 result of post-traumatic stress disorder, substance abuse, or  
5 psychological problems stemming from service in a combat  
6 theater in the United States military, the court shall, prior to  
7 sentencing, hold a hearing to determine whether the defendant  
8 was a member of the military forces of the United States who  
9 served in combat and shall assess whether the defendant suffers  
10 from post-traumatic stress disorder, substance abuse or  
11 psychological problems as a result of that service.

12 (b) If the court concludes that a defendant convicted of a  
13 criminal offense is a person described in subdivision (a), and if  
14 the defendant is otherwise eligible for probation and the court  
15 places the defendant on probation, the court may order the  
16 defendant into a local, state, federal, or private nonprofit  
17 treatment program for a period not to exceed that which the  
18 defendant would have served in state prison or county jail,  
19 provided the defendant agrees to participate in the program and  
20 the court determines that an appropriate treatment program  
21 exists.

22 (c) When determining the “needs of the defendant,” for  
23 purposes of Section 1202.7, the court shall consider the fact that  
24 the defendant is a person described in subdivision (a) in assessing  
25 whether the defendant should be placed on probation.

26 (d) A defendant granted probation under this section and  
27 committed to a residential treatment program shall earn sentence  
28 credits for the actual time the defendant served in residential  
29 treatment.

30 (e) The court, in making an order under this section to commit  
31 a defendant to ~~a~~ *an established* treatment program, shall give  
32 preference to a treatment program that has a history of  
33 successfully treating combat veterans who suffer from  
34 post-traumatic stress disorder, substance abuse, or psychological  
35 problems as a result of that service.